

# **EXHIBIT 3**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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NATIONAL FEDERATION OF THE  
BLIND, the NATIONAL FEDERATION OF  
THE BLIND OF CALIFORNIA on behalf  
of their members, and BRUCE F.  
SEXTON on behalf of himself and  
all others similarly situated,

Plaintiffs,

Court File No. C06-01802 (MHP)

-vs-

TARGET CORPORATION,

Defendant.

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The Deposition of GREGG BODNAR, taken in the  
above-entitled matter, pursuant to Notice, before Gail M.  
Hinrichs, RPR and Notary Public, at 2200 Wells Fargo  
Center, 90 South Seventh Street, in the City of  
Minneapolis, County of Hennepin, State of Minnesota, on  
the 6th day of July, 2006, commencing at approximately  
1:55 p.m.

\* \* \*

1 THE WITNESS: No. That is not part of  
2 my job duties.

3 BY MR. KONECKY:

4 Q. Is that anything that you do at Target?

5 MR. PLUNKETT: Objection, vague.

6 THE WITNESS: I guess we -- we -- we do  
7 make applications that are user friendly. I guess I'm  
8 confused by when you talk about -- when you talk about  
9 accessibility -- access, what exactly you mean.

10 BY MR. KONECKY:

11 Q. Well, when you make applications that are user  
12 friendly, is there any part of that process which focuses  
13 specifically on ensuring that the applications are user  
14 friendly for people with vision disabilities that may need  
15 to use screen reading software or other devices in order  
16 to access a website?

17 A. No.

18 MR. PLUNKETT: Objection, lacks  
19 foundation. You should wait for my objections.

20 THE WITNESS: Sorry.

21 BY MR. KONECKY:

22 Q. The five people that you manage, did they have  
23 any training in making applications or other aspects of a  
24 website accessible to blind people or people with vision  
25 disabilities?

1 MR. PLUNKETT: Objection, calls for  
2 speculation.

3 THE WITNESS: Not that I'm aware of.

4 BY MR. KONECKY:

5 Q. You testified before, I think, if I'm reading  
6 my notes correctly, that there are approximately 20 to 40  
7 Target employees that work on web design; is that right?

8 A. That is my guess.

9 Q. Okay. Do you work with any of them?

10 A. Yes.

11 Q. Okay. Approximately how many?

12 A. I tend to work with four or five of them.

13 Q. The same people you supervise or in addition  
14 to the people you supervise?

15 A. Other people.

16 Q. Do the people that you work with that work on  
17 web design have any training or experience that you are  
18 aware of with respect to making a website accessible to  
19 somebody who is blind or who has a vision disability?

20 MR. PLUNKETT: Objection, calls for  
21 speculation.

22 THE WITNESS: I don't know.

23 BY MR. KONECKY:

24 Q. Are you aware of anybody that works on the  
25 Target.com website that has particular training or

1 Q. The pharmacy, how does that work? At least  
2 how does the website component of it work?

3 MR. PLUNKETT: Objection, vague.

4 THE WITNESS: There is a pharmacy refill  
5 and a -- prescription refill, excuse me, and a  
6 prescription transfer functionality.

7 BY MR. KONECKY:

8 Q. The prescription refill, tell me how that  
9 works?

10 MR. PLUNKETT: Objection, vague.

11 THE WITNESS: A person with an existing  
12 Target prescription can go online, enter in that  
13 prescription information, and then if -- if it's all  
14 right -- if it's -- excuse me, I can't think of the right  
15 word, if there is refills available, would have a refill  
16 waiting for them in the store.

17 BY MR. KONECKY:

18 Q. Okay. I suppose they could find the most  
19 convenient store looking at the store locator on the  
20 website?

21 A. No. Prescription refills you have to go to  
22 the store that you -- it was filled at.

23 Q. But can you find out from the store -- from  
24 the Target.com website which Target store's have  
25 pharmacies?

1 Q. The pharmacy, how does that work? At least  
2 how does the website component of it work?

3 MR. PLUNKETT: Objection, vague.

4 THE WITNESS: There is a pharmacy refill  
5 and a -- prescription refill, excuse me, and a  
6 prescription transfer functionality.

7 BY MR. KONECKY:

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9 works?

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12 Target prescription can go online, enter in that  
13 prescription information, and then if -- if it's all  
14 right -- if it's -- excuse me, I can't think of the right  
15 word, if there is refills available, would have a refill  
16 waiting for them in the store.

17 BY MR. KONECKY:

18 Q. Okay. I suppose they could find the most  
19 convenient store looking at the store locator on the  
20 website?

21 A. No. Prescription refills you have to go to  
22 the store that you -- it was filled at.

23 Q. But can you find out from the store -- from  
24 the Target.com website which Target store's have  
25 pharmacies?

1 A. Yes, you can find that out.

2 Q. Okay. And you can find out which one is  
3 closest to you through that process on the website?

4 A. Yes.

5 MR. PLUNKETT: Same objection.

6 BY MR. KONECKY:

7 Q. What's the prescription transfer  
8 functionality?

9 A. That's where you can have a prescription  
10 external to Target pharmacies and have that information  
11 then sent to -- request the Target pharmacy to pull that  
12 information from another pharmacy and fill it for you.

13 Q. So you go online and you input your  
14 prescription information, including where it is located in  
15 terms of a different non-Target pharmacy, is that right so  
16 far?

17 A. Yeah, that's correct.

18 Q. And then you make a request and at least in  
19 some cases, the Target store is able to then get the  
20 information from the outside pharmacy and fill your  
21 prescription at the store for you to pick up at the store;  
22 is that right?

23 A. Yes. You can -- you can provide that  
24 information and the Target pharmacy will then request that  
25 information from the other pharmacy to fulfill -- to fill

1 that prescription at the Target pharmacy.

2 Q. And then could you -- or the consumer goes to  
3 the Target pharmacy to actually get their medication or  
4 their prescription, their filled prescription; is that  
5 right?

6 A. Yes, pick-ups are in the store.

7 Q. And then the consumer can arrange for that  
8 through the website; is that right?

9 A. Yes, they can arrange for that.

10 Q. Optical, what is that?

11 A. Eyeglasses.

12 Q. How does the eyeglass optical process work?

13 A. There is just information --

14 MR. PLUNKETT: Objection, vague.

15 THE WITNESS: There is just information  
16 online.

17 BY MR. KONECKY:

18 Q. So the Target.com has informational pages  
19 about optical products such as eyeglasses, which are  
20 available at Target stores?

21 A. Yes, that information is available.

22 Q. The pharmacy also has a rewards program that  
23 you can sign up for online?

24 MR. PLUNKETT: Objection, lacks  
25 foundation.



1 MR. PLUNKETT: Objection, assumes facts,  
2 vague.

3 THE WITNESS: No, it does not surprise  
4 me.

5 BY MR. KONECKY:

6 Q. Why not?

7 MR. PLUNKETT: Same objections.

8 THE WITNESS: This is the type of thing  
9 you can do online.

10 BY MR. KONECKY:

11 Q. What do you mean this is the type of thing?

12 A. Provide information for people and allow them  
13 to sign up for a number of different things.

14 Q. A number of different things including things  
15 and services that might be available at the store as well,  
16 right?

17 MR. PLUNKETT: Objection, vague. Lacks  
18 foundation.

19 THE WITNESS: These are services of  
20 Target Corporation.

21 BY MR. KONECKY:

22 Q. And they're services of Target Corporation  
23 that are provided in some instances, such as the ones  
24 you've testified before, at the store, correct?

25 MR. PLUNKETT: Objection, vague, lacks

1 foundation.

2 THE WITNESS: So yes, the fulfillment of  
3 this would come through the store.

4 BY MR. KONECKY:

5 Q. And the website, am I correct, makes it in  
6 certain circumstances easier or more convenient for the  
7 consumer to actually fulfill the transaction or the  
8 ultimate objective at the store?

9 MR. PLUNKETT: Objection, calls for  
10 speculation.

11 THE WITNESS: What do you mean by more  
12 convenient?

13 BY MR. KONECKY:

14 Q. Well, is it not one of the purposes for having  
15 this kind of website to allow the customer to have more  
16 ready access to the services or the products that might be  
17 available at the store?

18 MR. PLUNKETT: Objection, calls for  
19 speculation.

20 THE WITNESS: This provides another  
21 channel for a guest to apply for this. But the same thing  
22 could be done in the store.

23 BY MR. KONECKY:

24 Q. I understand the same thing could be done in  
25 the store. But I'm saying from Target's perspective and

1 A. Yes, they can.

2 Q. Okay. Would you consider that a benefit of  
3 Target.com, which then translates to lower prices in the  
4 stores?

5 MR. PLUNKETT: Objection, vague, calls  
6 for speculation. Lacks foundation, improper lay opinion.

7 THE WITNESS: Again, I'm not the  
8 business side. I just implement it for them.

9 BY MR. KONECKY:

10 Q. But as somebody who is implementing it, is  
11 that your understanding?

12 MR. PLUNKETT: Same objections.

13 THE WITNESS: My understanding is there  
14 is a business reason for doing it, yes. Otherwise we  
15 wouldn't have implemented it. I don't know the specifics  
16 behind that.

17 BY MR. KONECKY:

18 Q. And is it your understanding that somebody by  
19 using Target.com can get coupons that will make it cheaper  
20 for them to buy groceries in the Target stores?

21 MR. PLUNKETT: Objection, asked and  
22 answered, lacks foundation. Calls for speculation.

23 THE WITNESS: Yes, they can print up  
24 coupons that they can use in the store, yes.

25 BY MR. KONECKY:

1 Q. People can also purchase products on  
2 Target.com without ever visiting the store, right?

3 A. Yes.

4 Q. And when they purchase those products, at  
5 least some of them, they can actually -- if they don't  
6 like it -- go to a physical store and return it at the  
7 physical store; is that right?

8 MR. PLUNKETT: Objection, calls for  
9 speculation, lack of foundation.

10 THE WITNESS: That's my understanding.

11 BY MR. KONECKY:

12 Q. That's part of the return policy of Target,  
13 right?

14 MR. PLUNKETT: Objection, calls for  
15 speculation.

16 THE WITNESS: I believe so.

17 BY MR. KONECKY:

18 Q. Target has its own Visa card?

19 A. Yes.

20 Q. And that's something that can be applied for  
21 online through Target.com?

22 A. Yes.

23 Q. And then the Visa card can then be used to  
24 purchase products in the Target stores?

25 A. The Target Visa can be used in Target stores

1 and other locations.

2 Q. And in fact, if you do use the Target Visa in  
3 Target stores and other locations, you can get 10 percent  
4 off a shopping day at the Target stores; isn't that right?

5 MR. PLUNKETT: Objection, calls for  
6 speculation, lacks foundation, assumes facts.

7 THE WITNESS: As a customer of Target's,  
8 that's my experience, as a team member of Target, I do not  
9 work on that, those systems or that business area.

10 BY MR. KONECKY:

11 Q. Do you have a Target Visa card?

12 A. Yes, I do.

13 MR. KONECKY: Why don't we take a quick  
14 break.

15 (At this time a brief recess was taken From  
16 3:45 p.m. To 3:55 p.m.)

17 BY MR. KONECKY:

18 Q. Next paragraph of your declaration, paragraph  
19 four, you talk about the different web pages on Target.com  
20 being administered and hosted by numerous different  
21 entities. What do you mean by administered and what do  
22 you mean by hosted?

23 A. So basically the web pages themselves are on  
24 servers that are controlled by third-party vendors. So  
25 you can have situations where you can host with somebody

1 Target content into the correct places.

2 BY MR. KONECKY:

3 Q. And that's what Target is loading in through  
4 the so called back end?

5 A. Yes.

6 Q. And then what do you mean by front end?

7 A. That would be the template.

8 Q. Which the user is actually seeing or viewing?

9 A. Yes.

10 Q. Or attempting to access. All right. Do you  
11 know whether -- well, you interact with people from  
12 Amazon?

13 A. Very minimally.

14 Q. Very minimally. I take it you have never  
15 inquired of Amazon or any other third-party vendor as to  
16 whether or not modifications or improvements could be made  
17 to enhance access for people with vision disabilities to  
18 Target.com; is that correct?

19 MR. PLUNKETT: Objection, vague, lacks  
20 foundation.

21 THE WITNESS: I have not, no.

22 BY MR. KONECKY:

23 Q. Do you know if anybody from Target has  
24 inquired with any of its other third-party contractors,  
25 vendors such as Amazon, with respect to the issue of

1 making the website more accessible to blind users or users  
2 with other visual disabilities?

3 MR. PLUNKETT: Objection, the question  
4 potentially invades the attorney-client privilege, and I  
5 would just counsel the witness to exclude any information  
6 you may have learned from counsel.

7 THE WITNESS: The only part that I'm  
8 aware of is that we have viewed requirements for Amazon  
9 hosted materials that would change how that -- how that --  
10 those pages are built.

11 BY MR. KONECKY:

12 Q. Reviewed requirements for Amazon hosted  
13 materials. Who drafted these requirements?

14 A. That I don't know.

15 Q. Are they Target requirements or are they  
16 Amazon requirements or somewhere else?

17 A. My understanding is that Amazon actually  
18 drafted -- made the first draft of the requirements that  
19 are then reviewed.

20 Q. So you receive these requirements from Amazon  
21 or from somewhere else?

22 A. I receive them from Target.com.

23 Q. How are they labeled?

24 A. I don't know what you mean.

25 Q. I mean is there -- did you review them in a

1 paper format or on the computer or some other way?

2 A. It's paper format.

3 Q. So how is the document labeled? Is there a  
4 title to it?

5 A. I really don't recall what the title was.

6 Q. And is it a document that is particular to the  
7 Target.com website or is it a document that's more generic  
8 for Amazon generally?

9 A. My understanding it's particular for the  
10 Target.com website.

11 Q. When did you first review it?

12 A. Two or three weeks ago.

13 Q. Do you know when it was drafted?

14 A. No, I do not.

15 Q. Do you know why it was drafted?

16 A. No, I do not.

17 Q. How did you come to learn about it?

18 A. It was provided to me by Target.com.

19 Q. Who in particular at Target.com?

20 A. Kelly Spsychalla.

21 Q. Other than this document that you reviewed two  
22 to three weeks ago from Amazon that was provided to you by  
23 Kelly, are there any other instances that you are aware of  
24 in which Target has communicated with any third-party  
25 vendors with respect to the issue of making Target.com



1 accessible or more accessible to individuals with vision  
2 disabilities?

3 A. I'm not aware of us communicating anything to  
4 vendors.

5 Q. How big is this document, the one you were  
6 just talking about from Amazon?

7 A. In terms of pages?

8 Q. Yes.

9 A. It's five or six pages.

10 Q. What are the requirements that are listed?

11 A. I don't recall all of them, but I know it  
12 included adding alt tags to links or graphics and titles  
13 to links.

14 Q. Anything else?

15 A. I believe there was some requirements around  
16 form information.

17 Q. What do you mean form information?

18 A. Online forms, ordering the forms and then also  
19 making sure required fields are represented by something  
20 other than color.

21 Q. Other than color?

22 A. (Witness nodding head.)

23 Q. Anything else that you recall?

24 A. There's a requirement that spacer images  
25 should have no alt tags.

1 Q. What kind of images?

2 A. Spacer images.

3 Q. And what are those?

4 A. Those are the images that are used to lay out  
5 the look and feel of the pages.

6 Q. And why wouldn't those require alt tags as you  
7 understand it?

8 A. Because they have no meaning.

9 Q. Anything else?

10 A. I can't recall.

11 Q. Do you recall the Amazon document addressing  
12 at all use of a keyboard as opposed to a mouse or in  
13 addition to a mouse?

14 A. In so much as the forms, yes.

15 Q. Can you describe your understanding or memory  
16 of how the document addressed keyboard issues?

17 A. It addressed the ability to navigate forms  
18 with the keyboard and also one particular section of our  
19 product description pages.

20 Q. Which section?

21 A. The product description page has a box in it  
22 with four tabs on it, and it's the ability to move between  
23 those tabs that it addressed.

24 Q. Anything else? Subject areas that this  
25 document addressed?

1 A. Not that I can recall.

2 Q. With respect to adding the alt tags, what did  
3 the document say would need to be done?

4 MR. PLUNKETT: Objection, assumes facts.

5 THE WITNESS: It said that Target would  
6 need to be able to -- or Target web pages would need to  
7 have alt tags to all images.

8 BY MR. KONECKY:

9 Q. Do Target web pages currently have alt tags  
10 for images?

11 A. Not consistently, no.

12 Q. Is it doable to provide alt tags for all  
13 images on Target.com?

14 MR. PLUNKETT: Objection, vague, also  
15 calls for speculation.

16 THE WITNESS: I guess technically you  
17 can -- you can do that. I guess what doable is kind of a  
18 vague term to me.

19 BY MR. KONECKY:

20 Q. Well, are there any particular costs or other  
21 burdens that would prevent Target from taking the Amazon  
22 requirement or recommendation to add alt tags for all  
23 information?

24 MR. PLUNKETT: Objection, assumes facts,  
25 calls for speculation.

1 THE WITNESS: I don't know on Amazon's  
2 side. I would have to assume on that side. I know there  
3 would be some significant hours on our -- on our business  
4 people's time to use the back end tools.

5 BY MR. KONECKY:

6 Q. To actually implement the tags or to maintain  
7 them?

8 A. To implement and maintain them.

9 Q. How many additional hours?

10 A. I don't know.

11 Q. Has there been any analysis of how many  
12 additional hours?

13 A. No, that I'm aware of.

14 Q. Not that you're aware of?

15 A. No, I'm not aware.

16 Q. Are there any specific administrative or  
17 financial costs or burdens that you are aware of that  
18 would prevent Target from adding alt tags to all of its  
19 images and information on Target.com?

20 MR. PLUNKETT: Objection, asked and  
21 answered, calls for speculation.

22 THE WITNESS: I'm not -- I'm not aware  
23 of what they are.

24 BY MR. KONECKY:

25 Q. Are you aware that there are any?

1 MR. PLUNKETT: Same objection.

2 THE WITNESS: I could -- I could  
3 speculate that it would require development on Amazon's  
4 part, but I don't know.

5 BY MR. KONECKY:

6 Q. What about titles to links -- well, let me  
7 back up.

8 On the alt tags, was there anything in the  
9 document from Amazon which indicated that it would be too  
10 costly or too burdensome to put alt tags on all the  
11 information on the Target website?

12 MR. PLUNKETT: Objection, assumes facts  
13 not in evidence.

14 THE WITNESS: No.

15 BY MR. KONECKY:

16 Q. Any of your conversations with anybody from  
17 Amazon, has that issue ever been expressed?

18 MR. PLUNKETT: Objection, assumes facts,  
19 lacks foundation.

20 THE WITNESS: I had no conversation.

21 BY MR. KONECKY:

22 Q. All right. On the titles to links, is there  
23 anything in the Amazon document which indicated that  
24 putting those titles on would create some kind of burden,  
25 whether cost or administrative or otherwise, that would

1 make it impractical or undesirable to provide such titles?

2 MR. PLUNKETT: Objection, assumes facts.

3 THE WITNESS: There was nothing that I

4 can recollect.

5 BY MR. KONECKY:

6 Q. Is there any particular cost, burdens, either  
7 financial or administrative, that you are aware of that  
8 would make it undesirable or prohibitive to provide titles  
9 on the links on the website for blind users?

10 MR. PLUNKETT: Objection, calls for  
11 speculation, assumes facts. Calls for speculation.

12 THE WITNESS: I can only guess.

13 BY MR. KONECKY:

14 Q. You're not aware of anything else?

15 A. No.

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16 MR. PLUNKETT: Same objections.

17 BY MR. KONECKY:

18 Q. On the online forms, anything in the Amazon  
19 document that indicated that putting on the fields that  
20 you were talking about for the online forms for blind  
21 people to be able to navigate and to know where to input  
22 information, that doing that on Target.com would be too  
23 costly or too administratively burdensome, is there any  
24 indication in the Amazon documents of such costs or  
25 burdens?

1           A.    No.  Beyond conversations with attorneys, I  
2    have not been privy to any discussions about the checkout  
3    button.

4           Q.    Okay.  In paragraph five of your declaration  
5    you say that if this court were to order Target.com to  
6    alter or modify one or more of the web pages on its  
7    website, (or to order Target.com to request that its  
8    third-party contractors alter or modify the web pages they  
9    administer on Target.com's behalf) those alterations and  
10   modifications would affect transactions between Target.com  
11   and Internet users throughout the country, not just  
12   transactions between Target.com and Internet users who  
13   reside in California.

14                    Is there any specific way that modifying the  
15   web pages to achieve access for blind users would alter or  
16   modify transactions between Target.com and Internet users  
17   throughout the country other than making it more  
18   accessible for blind people?

19                   MR. PLUNKETT:  Objection, vague, calls  
20   for speculation.  Lacks foundation.

21                   THE WITNESS:  Yeah, I don't know of  
22   anything specific.  I do know that changes made on the  
23   website would be viewed by all users.

24  BY MR. KONECKY:

25           Q.    But am I correct as you sit here today, you

1 don't know of any specific way in which making  
2 accessibility modifications to Target.com to improve  
3 access for blind people would affect transactions between  
4 Target.com and the Internet users in any part of the  
5 country, other than to make the website more accessible to  
6 blind people?

7 MR. PLUNKETT: Objection, it calls for  
8 speculation, argumentative, lacks foundation. Assumes  
9 facts.

10 THE WITNESS: I don't know of any.

11 (Whereupon BODNAR Exhibit 6 was marked for  
12 identification by the court reporter and  
13 attached hereto.)

14 BY MR. KONECKY:

15 Q. Have you seen Exhibit 6 before?

16 A. No, I actually have not seen this page before.

17 Q. I'll say for the record this is a page I  
18 printed off Target.com yesterday entitled Your California  
19 Privacy Rights. Can you read that sentence after that  
20 first heading?

21 A. Under California law, California residents who  
22 have an established business relationship with Target may  
23 choose to opt out of Target disclosing personal  
24 information about them to third parties for marketing  
25 purposes.